

108TH CONGRESS
1ST SESSION

H. R. 592

To expand aviation capacity.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2003

Mr. LIPINSKI (for himself, Mr. DAVIS of Illinois, Mr. KIRK, Mr. COSTELLO, Mr. EMANUEL, Ms. SCHAKOWSKY, Mr. GUTIERREZ, Mr. MANZULLO, Mr. SHIMKUS, Mr. JOHNSON of Illinois, Mr. EVANS, and Mr. BOSWELL) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To expand aviation capacity.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This title may be cited as the “National Aviation Ca-
5 pacity Expansion Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) O’Hare International Airport consistently
9 ranks as the Nation’s first or second busiest airport
10 with nearly 34,000,000 annual passengers

1 enplanements, almost all of whom travel in inter-
2 state or foreign commerce. The Federal Aviation Ad-
3 ministration's most recent data, compiled in the Air-
4 port Capacity Benchmark Report 2001, projects de-
5 mand at O'Hare to grow by 18 percent over the next
6 decade. O'Hare handles 72,100,000 passengers an-
7 nually, compared with 64,600,000 at London
8 Heathrow International Airport, Europe's busiest
9 airport, and 36,700,000 at Kimpo International Air-
10 port, Korea's busiest airport, 7,400,000 at Narita
11 International Airport, Japan's busiest airport,
12 23,700,000 at Kingsford-Smith International Air-
13 port, Australia's busiest airport, and 6,200,000 at
14 Ezeiza International Airport, Argentina's busiest
15 airport, as well as South America's busiest airport.

16 (2) The Airport Capacity Benchmark Report
17 2001 ranks O'Hare as the third most delayed air-
18 port in the United States. Overall, slightly more
19 than 6 percent of all flights at O'Hare are delayed
20 significantly (more than 15 minutes). On good
21 weather days, scheduled traffic is at or above capac-
22 ity for 3½ hours of the day with about 2 percent
23 of flights at O'Hare delayed significantly. In adverse
24 weather, capacity is lower and scheduled traffic ex-

1 ceeds capacity for 8 hours of the day, with about 12
2 percent of the flights delayed.

3 (3) The city of Chicago, Illinois, which owns
4 and operates O'Hare, has been unable to pursue
5 projects to increase the operating capability of
6 O'Hare runways and thereby reduce delays because
7 the city of Chicago and the State of Illinois have
8 been unable for more than 20 years to agree on a
9 plan for runway reconfiguration and development.
10 State law states that such projects at O'Hare re-
11 quire State approval.

12 (4) On December 5, 2001, the Governor of Illi-
13 nois and the Mayor of Chicago reached an agree-
14 ment to allow the city to go forward with a proposed
15 capacity enhancement project for O'Hare which in-
16 volves redesign of the airport's runway configura-
17 tion.

18 (5) In furtherance of such agreement, the city,
19 with approval of the State, applied for and received
20 a master-planning grant from the Federal Aviation
21 Administration for the capacity enhancement
22 project.

23 (6) The agreement between the city and the
24 State is not binding on future Governors of Illinois.

1 (7) Future Governors of Illinois could stop the
2 O'Hare capacity enhancement project by refusing to
3 issue a certificate required for such project under
4 the Illinois Aeronautics Act, or by refusing to submit
5 airport improvement grant requests for the project,
6 or by improperly administering the State implemen-
7 tation plan process under the Clean Air Act (42
8 U.S.C. 7401 et seq.) to prevent construction and op-
9 eration of the project.

10 (8) The city of Chicago is unwilling to continue
11 to go forward with the project without assurance
12 that future Governors of Illinois will not be able to
13 stop the project, thereby endangering the value of
14 the investment of city and Federal resources in the
15 project.

16 (9) Because of the importance of O'Hare to the
17 national air transportation system and the growing
18 congestion at the airport and because of the expendi-
19 ture of Federal funds for a master-planning grant
20 for expansion of capacity at O'Hare, it is important
21 to the national air transportation system, interstate
22 commerce, and the efficient expenditure of Federal
23 funds, that the city of Chicago's proposals to the
24 Federal Aviation Administration have an oppor-
25 tunity to be considered for Federal approval and

1 possible funding, that the city's requests for changes
2 to the State implementation plan to allow such
3 projects not be denied arbitrarily, and that, if the
4 Federal Aviation Administration approves the
5 project and funding for a portion of its cost, the city
6 can implement and use the project.

7 (10) Any application submitted by the city of
8 Chicago for expansion of O'Hare should be evalu-
9 ated by the Federal Aviation Administration and
10 other Federal agencies under all applicable Federal
11 laws and regulations and should be approved only if
12 the application meets all requirements imposed by
13 such laws and regulations.

14 (11) As part of the agreement between the city
15 and the State allowing the city to submit an applica-
16 tion for improvement of O'Hare, there has been an
17 agreement for the continued operation of Merrill C.
18 Meigs Field by the city, and it has also been agreed
19 that, if the city does not follow the agreement on
20 Meigs Field, Federal airport improvement program
21 funds should be withheld from the city for O'Hare.

22 (12) To facilitate implementation of the agree-
23 ment allowing the city to submit an application for
24 O'Hare, it is desirable to require by law that Fed-
25 eral airport improvement program funds for O'Hare

1 be administered to require continued operation of
2 Merrill C. Meigs Field by the city, as proposed in
3 the agreement.

4 (13) To facilitate implementation of the agree-
5 ment allowing the city to submit an application for
6 O'Hare, it is desirable to enact into law provisions
7 of the agreement relating to noise and public road-
8 way access. These provisions are not inconsistent
9 with Federal law.

10 (14) If the Federal Aviation Administration ap-
11 proves an airport layout plan for O'Hare directly re-
12 lated to the agreement reached on December 5,
13 2001, such approvals will constitute an action of the
14 United States under Federal law and will be an im-
15 portant first step in the process by which the Gov-
16 ernment could decide that these plans should receive
17 Federal assistance under chapter 471 of title 49,
18 United States Code, relating to airport development.

19 (15) The agreement between the State of Illi-
20 nois and the city of Chicago includes agreement that
21 the construction of an airport in Peotone, Illinois,
22 would be proposed by the State to the Federal Avia-
23 tion Administration. Like the O'Hare expansion pro-
24 posal, the Peotone proposal should receive full con-
25 sideration by the Federal Aviation Administration

1 under standard procedures for approving and fund-
2 ing an airport improvement project, including all ap-
3 plicable safety, utility and efficiency, and environ-
4 mental review.

5 (16) Gary/Chicago Airport in Gary, Indiana,
6 and the Greater Rockford Airport, Illinois, may al-
7 leviate congestion and provide additional capacity in
8 the greater Chicago metropolitan region. Like the
9 O'Hare airport expansion proposal, expansion efforts
10 by Gary/Chicago and Greater Rockford airports
11 should receive full consideration by the Federal
12 Aviation Administration under standard procedures
13 for approving and funding an airport capacity im-
14 provement project, including all applicable safety,
15 utility and efficiency, and environmental reviews.

16 **SEC. 3. STATE, CITY, AND FAA AUTHORITY.**

17 (a) PROHIBITION.—In furtherance of the purpose of
18 this Act to achieve significant air transportation benefits
19 for interstate and foreign commerce, if the Federal Avia-
20 tion Administration makes, or at any time after December
21 5, 2001 has made, a grant to the city of Chicago, Illinois,
22 with the approval of the State of Illinois for planning or
23 construction of runway improvements at O'Hare Inter-
24 national Airport, the State of Illinois, and any instrumen-
25 tality or political subdivision of the State, are prohibited

1 from exercising authority under sections 38.01, 47, and
2 48 of the Illinois Aeronautics Act (620 ILCS 5/) to pre-
3 vent, or have the effect of preventing—

4 (1) further consideration by the Federal Avia-
5 tion Administration of an O'Hare airport layout
6 plan directly related to the agreement reached by the
7 State and the city on December 5, 2001, with re-
8 spect to O'Hare;

9 (2) construction of projects approved by the Ad-
10 ministration in such O'Hare airport layout plan; or

11 (3) application by the city of Chicago for Fed-
12 eral airport improvement program funding for
13 projects approved by the Administration and shown
14 on such O'Hare airport layout plan.

15 (b) APPLICATIONS FOR FEDERAL FUNDING.—Not-
16 withstanding any other provision of law, the city of Chi-
17 cago is authorized to submit directly to the Federal Avia-
18 tion Administration without the approval of the State of
19 Illinois, applications for Federal airport improvement pro-
20 gram funding for planning and construction of a project
21 shown on an O'Hare airport layout plan directly related
22 to the agreement reached on December 5, 2001, and to
23 accept, receive, and disburse such funds without the ap-
24 proval of the State of Illinois.

1 (c) LIMITATION.—If the Federal Aviation Adminis-
2 tration determines that an O’Hare airport layout plan di-
3 rectly related to the agreement reached on December 5,
4 2001, will not be approved by the Administration, sub-
5 sections (a) and (b) of this section shall expire and be of
6 no further effect on the date of such determination.

7 (d) WESTERN PUBLIC ROADWAY ACCESS.—As pro-
8 vided in the December 5, 2001, agreement referred to in
9 subsection (a), the Administrator of the Federal Aviation
10 Administration shall not consider an airport layout plan
11 submitted by the city of Chicago that includes the runway
12 redesign plan, unless the airport layout plan includes pub-
13 lic roadway access through the existing western boundary
14 of O’Hare to passenger terminal and parking facilities lo-
15 cated inside the boundary of O’Hare and reasonably acces-
16 sible to such western access. Approval of western public
17 roadway access shall be subject to the condition that the
18 cost of construction be paid for from airport revenues con-
19 sistent with Administration revenue use requirements.

20 (e) NOISE MITIGATION.—As provided in the Decem-
21 ber 5, 2001, agreement referred to in subsection (a), the
22 following apply:

23 (1) Approval by the Administrator of an airport
24 layout plan that includes the runway redesign plan
25 shall require the city of Chicago to offer acoustical

1 treatment of all single-family houses and schools lo-
2 cated within the 65 DNL noise contour for each
3 construction phase of the runway redesign plan, sub-
4 ject to Administration guidelines and specifications
5 of general applicability. The Administrator may not
6 approve the runway redesign plan unless the city
7 provides the Administrator with information suffi-
8 cient to demonstrate that the acoustical treatment
9 required by this paragraph is feasible.

10 (2)(A) Approval by the Administrator of an air-
11 port layout plan that includes the runway redesign
12 plan shall be subject to the condition that noise im-
13 pact of aircraft operations at O'Hare in the calendar
14 year immediately following the year in which the
15 first new runway is first used and in each calendar
16 year thereafter will be less than the noise impact in
17 calendar year 2000.

18 (B) The Administrator shall make the deter-
19 mination described in subparagraph (A)—

20 (i) using, to the extent practicable, the pro-
21 cedures specified in part 150 of title 14, Code
22 of Federal Regulations;

23 (ii) using the same method for calendar
24 year 2000 and for each forecast year; and

1 (iii) by determining noise impact solely in
2 terms of the aggregate number of square miles
3 and the aggregate number of single-family
4 houses and schools exposed to 65 or greater
5 decibels using the DNL metric, including only
6 single-family houses and schools in existence on
7 the last day of calendar year 2000. The Admin-
8 istrator shall make such determination based on
9 information provided by the city of Chicago,
10 which shall be independently verified by the Ad-
11 ministrator.

12 (C) The conditions described in this subsection
13 shall be enforceable exclusively through the submis-
14 sion and approval of a noise compatibility plan
15 under part 150 of title 14, Code of Federal Regula-
16 tions. The noise compatibility plan submitted by the
17 city of Chicago shall provide for compliance with this
18 subsection. The Administrator shall approve meas-
19 ures sufficient for compliance with this subsection in
20 accordance with procedures under such part 150.
21 The United States shall have no financial responsi-
22 bility or liability if operations at O'Hare in any year
23 do not satisfy the conditions in this subsection.

24 (f) REPORT TO CONGRESS.—If the runway redesign
25 plan described in this section has not received all Federal,

1 State, and local permits and approvals necessary to begin
2 construction by December 31, 2004, the Administrator
3 shall submit a status report to the Committee on Com-
4 merce, Science, and Transportation of the Senate and the
5 Committee on Transportation and Infrastructure of the
6 House of Representatives within 120 days of such date
7 identifying each permit and approval necessary for the
8 project and the status of each such action.

9 (g) JUDICIAL REVIEW.— An order issued by the Ad-
10 ministrator, in whole or in part, under this section shall
11 be deemed to be an order issued under part A of subtitle
12 VII of title 49, United States Code, and shall be reviewed
13 in accordance with the procedure in section 46110 of such
14 title.

15 (h) DEFINITION.—In this section, the terms “airport
16 layout plan directly related to the agreement reached on
17 December 5, 2001” and “such airport layout plan” mean
18 a plan that shows—

19 (1) 6 parallel runways at O’Hare oriented in
20 the east-west direction with the capability for 4 si-
21 multaneous independent visual aircraft arrivals in
22 both directions, and all associated taxiways, naviga-
23 tional facilities, and other related facilities; and

24 (2) closure of existing runways 14L–32R, 14R–
25 32L and 18–36 at O’Hare.

1 **SEC. 4. CLEAN AIR ACT.**

2 (a) IMPLEMENTATION PLAN.—An implementation
3 plan shall be prepared by the State of Illinois under the
4 Clean Air Act (42 U.S.C. 7401 et seq.) in accordance with
5 the State’s customary practices for accounting for and
6 regulating emissions associated with activity at commer-
7 cial service airports. The State shall not deviate from its
8 customary practices under the Clean Air Act for the pur-
9 pose of interfering with the construction of a runway pur-
10 suant to the redesign plan or the south suburban airport.
11 At the request of the Administrator of the Federal Avia-
12 tion Administration, the Administrator of the Environ-
13 mental Protection Agency shall, in consultation with the
14 Administrator of the Federal Aviation Administration, de-
15 termine that the foregoing condition has been satisfied be-
16 fore approving an implementation plan. Nothing in this
17 section shall be construed to affect the obligations of the
18 State under section 176(c) of the Clean Air Act (42
19 U.S.C. 7506(c)).

20 (b) LIMITATION ON APPROVAL.—The Administrator
21 of the Federal Aviation Administration shall not approve
22 the runway redesign plan unless the Administrator of the
23 Federal Aviation Administration determines that the con-
24 struction and operation will include, to the maximum ex-
25 tent feasible, the best management practices then reason-
26 ably available to and used by operators of commercial serv-

1 ice airports to mitigate emissions regulated under the im-
2 plementation plan.

3 **SEC. 5. MERRILL C. MEIGS FIELD.**

4 The State of Illinois and the city of Chicago, Illinois,
5 have agreed to the following:

6 (1) Until January 1, 2026, the Administrator
7 of the Federal Aviation Administration shall with-
8 hold all Federal airport grant funds respecting
9 O'Hare International Airport, other than grants in-
10 volving national security and safety, unless the Ad-
11 ministrator is reasonably satisfied that the following
12 conditions have been met:

13 (A) Merrill C. Meigs Field in Chicago ei-
14 ther is being operated by the city of Chicago as
15 an airport or has been closed by the Adminis-
16 tration for reasons beyond the city's control.

17 (B) The city of Chicago is providing, at its
18 own expense, all off-airport roads and other ac-
19 cess, services, equipment, and other personal
20 property that the city provided in connection
21 with the operation of Meigs Field on and prior
22 to December 1, 2001.

23 (C) The city of Chicago is operating Meigs
24 Field, at its own expense, at all times as a pub-
25 lic airport in good condition and repair open to

1 all users capable of utilizing the airport and is
2 maintaining the airport for such public oper-
3 ations at least from 6:00 A.M. to 10:00 P.M.
4 7 days a week whenever weather conditions per-
5 mit.

6 (D) The city of Chicago is providing or
7 causing its agents or independent contractors to
8 provide all services (including police and fire
9 protection services) provided or offered at Meigs
10 Field on or immediately prior to December 1,
11 2001, including tie-down, terminal, refueling,
12 and repair services, at rates that reflect actual
13 costs of providing such goods and services.

14 (2) If Meigs Field is closed by the Administra-
15 tion for reasons beyond the city of Chicago's control,
16 the conditions described in subparagraphs (B)
17 through (D) of paragraph (1) shall not apply.

18 (3) After January 1, 2006, the Administrator
19 shall not withhold Federal airport grant funds to the
20 extent the Administrator determines that with-
21 holding of such funds would create an unreasonable
22 burden on interstate commerce.

23 (4) The Administrator shall not enforce the
24 conditions listed in paragraph (1) if the State of Illi-

1 nois enacts a law on or after January 1, 2006, au-
2 thorizing the closure of Meigs Field.

3 (5) Net operating losses resulting from oper-
4 ation of Meigs Field, to the extent consistent with
5 law, are expected to be paid by the 2 air carriers at
6 O'Hare International Airport that paid the highest
7 amount of airport fees and charges at O'Hare Inter-
8 national Airport for the preceding calendar year.
9 Notwithstanding any other provision of law, the city
10 of Chicago may use airport revenues generated at
11 O'Hare International Airport to fund the operation
12 of Meigs Field.

13 **SEC. 6. APPLICATION WITH EXISTING LAW.**

14 Nothing in this Act shall give any priority to or affect
15 availability or amounts of funds under chapter 471 of title
16 49, United States Code, to pay the costs of O'Hare Inter-
17 national Airport, improvements shown on an airport lay-
18 out plan directly related to the agreement reached by the
19 State of Illinois and the city of Chicago, Illinois, on De-
20 cember 5, 2001.

21 **SEC. 7. SENSE OF CONGRESS ON QUIET AIRCRAFT TECH-**
22 **NOLOGY RESEARCH AND DEVELOPMENT.**

23 It is the sense of the Congress that the Office of En-
24 vironment and Energy of the Federal Aviation Adminis-
25 tration should be funded to carry out noise mitigation pro-

1 gramming and quiet aircraft technology research and de-
2 velopment at a level of \$37,000,000 for fiscal year 2004
3 and \$47,000,000 for fiscal year 2005.

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